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Date 1-3-94

Surname [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

NOV - 8 1993

Employer Identification Number: [REDACTED]  
Key District: Baltimore, MD

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax as an organization described in section 501(c)(5) of the Internal Revenue Code. We have determined that you do not qualify for exemption under that section of the Code. Our reasons for this conclusion and the facts upon which it is based are explained below.

The information submitted indicates that you were incorporated on [REDACTED], under the laws of the State of [REDACTED]. Your Certificate of Incorporation states that your objects and purposes are to promote and advance common business interests of the Franchise Owners and not to engage in a regular business of a kind ordinarily carried on for profit; to promote and advance the improvement of the business conditions in the limousine industry; to promote and advance the betterment of the conditions of those engaged in the limousine industry, the improvement of the quality of the service of those in the limousine industry and the development of a high degree of efficiency in the delivery of the services in the limousine industry; to promote a better spirit of cooperation in the limousine industry; and to make recommendations regarding tariffs, rules, and compliance with licensing of motor vehicles in the limousine industry. Your bylaws provide that your eligible and voting members must own an active [REDACTED] franchise for at least 30 days.

In your application, you state that you promote the common business interests of the Franchise owners through negotiations with the Franchisor, including the manner in which rides are distributed by the Franchisor, hours worked by the drivers, transfer of routes by the owners, and the Franchisor's responsibility for fair and safe work conditions. You also state that you assist drivers with financial aid when they are sick or disabled. Further, you state that your members are entitled to receive coverage for major car repairs (drive train) and group health insurance.

[REDACTED]

In your letter dated [REDACTED], you state that all your members are individual owners of franchises and that you are "in no way affiliated with any labor organization." You also state that although there is no formal or written authority for such, you are viewed by the Franchisor as a fair representation of its Franchisees, and thus you participate in meetings with the Franchisor as a representative of Franchisees.

Section 501(c)(5) of the Code provides for the exemption from federal income tax of labor, agricultural, or horticultural organizations.

Section 1.501(c)(5)-1 of the Income Tax Regulations provides that organizations contemplated by section 501(c)(5) of the Code are those which have no net earnings inuring to the benefit of any member, and have as their objects the betterment of the conditions of those engaged in such pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations.

Rev. Rul. 74-167, 1974-1 C.B. 134, holds that the inclusion of some self-employed persons in the membership of a qualified labor organization does not affect the organization's exempt status under section 501(c)(5) of the Code.

Rev. Rul. 78-288, 1978-2 C.B. 179, states that to be a labor organization under section 501(c)(5) of the Code, an organization must primarily serve the interests of labor, and that the term "labor" is commonly accepted as meaning the performance of services as employees. Thus, the revenue ruling holds that when most of an organization's members are entrepreneurs or independent contractors, the economic interests served by the organization's activities are not those of employees, and the organization does not qualify for exemption as a labor organization under section 501(c)(5).

From the information you have submitted, it is evident that you are an organization whose membership consists of owners of franchises of a particular limousine service. Owners of franchises are considered to be either independent contractors or self-employed persons rather than employees of the limousine service. The economic interest you serve are therefore not those of employees. As explained in Rev. Rul. 78-288, supra, an organization not serving the economic interests of employees is not exempt under section 501(c)(5) of the Code. You are not like the organization described in Rev. Rul. 74-167, supra, because all of your members, rather than just some, are not considered to be employees within the intendment of section 501(c)(5).

[REDACTED]

For this reason, we conclude that you do not qualify for recognition of exemption from federal income tax under section 501(c)(5) of the Code. You are required to file federal income tax returns.

You have the right to protest this ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of the date of this letter and must be signed by one of your officers. You also have a right to a conference in this office after your protest statement is submitted. If you want a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your officers, he/she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If we do not hear from you within 30 days, this ruling will become final and copies of it will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status should be addressed to your key District Director.

When sending additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt by placing the following symbols on the envelope: E:EO:R:4-CCH, Room 6236. These symbols do not refer to your case but rather to its location.

Sincerely yours,

[REDACTED]  
[REDACTED]  
Chief, Exempt Organizations  
Rulings Branch 4

cc: DD, Baltimore  
Attn: EO Group